

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TONY RAPATZ, ALICE GUERRA, and
KATHERINE GUERRA,

Plaintiffs,

vs.

Case No.: 12-CV-00827 RHS/LFG

CITY OF ESPANOLA;
JOE MARTINEZ, individually;
CHRISTIAN LOPEZ, individually;
ROBERT VIGIL, individually;
DANNY PACHECO, individually; and
CITY OF ESPANOLA EMPLOYEES and SUPERVISORS JOHN/JANE DOES 1 through 5,
individually,

Defendants.

**PLAINTIFFS', RESPONSE TO ORDER TO
SHOW CAUSE**

COME NOW the Plaintiffs' counsel, New Mexico Firm, LLC [Nathaniel V. Thompson] for his response to the Order to Show Cause related to the Settlement Conference states as follows:

INTRODUCTION

The Court issued an Order setting the settlement conference for August 25, 2014. On August 6, 2014, counsel for Plaintiffs while on vacation submitted their case summary via e-mail to Defendants' counsel Robert Cole. [See attached e-mail and Summary of the Case and Demand, Exhibit 1]. Because the e-mail was not confirmed as being delivered, counsel sent Defendants' counsel a second e-mail on August 8, 2014 with the case demand attached. On August 14, 2014, counsel for the Defendants sent Plaintiffs' counsels an e-mail stating that the e-mail from the Bahamas almost went to junk mail and attached Defendants' letter which is attached as Exhibit 2.

While on vacation from August 2, 2014 to August 12, 2014, Plaintiffs' counsel was notified by his seventeen year old daughter's boarding school for troubled teens in Hancock, New York, that the school was closing and that Plaintiff's counsel had one week in which to pick-up his daughter. Counsel for Plaintiffs during his vacation had to rearrange his vacation, fly to Washington D.C. and do a 6 hour drive to Hancock, NY and drive back 6 hours and arrange a flight to New Mexico. Plaintiffs' counsel had to then arrange for his daughter to get treatment and enrolled into services and a school in New Mexico or another state. Counsel is currently still working on this last minute emergency situation.

During this time period, Counsel thought that his submission deadline was today August 19, 2014. In fact, regarding the position statements, counsel for Plaintiffs asked the court if the demands exchanged between the parties needed submission to the court. The court explained they did not need to be submitted unless the court felt so at some point. Counsel missed the portion of the Order requiring submission of the two demands and honestly thought that today, August 19, 2014 was the deadline to submit all supporting documents for the settlement conference as well as Plaintiffs' position statement.

Because the case had already been scheduled for a settlement conference before Judge Garcia, Plaintiffs' had already submitted a position statement on July 15, 2013. Therefore, Plaintiffs already had Settlement Position Statement [Attached Exhibit 3] which they intended on amending for the August 25, 2014 settlement conference.

CONCLUSION

For all the foregoing reasons Counsel ask that the Court accept the filing of all the required demands and positions statements today, August 19, 2014, continue the Settlement

conference on August 25, 2014 and accept counsel's excusable neglect for the delay in submission of its' position statement to the Court.

RESPECTFULLY SUBMITTED:

By:



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Attorney for Plaintiffs

I hereby certify that I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing this 19th day of August, 2014.

Robert L. Cole, Esquire: rlc@rcolelaw.com
Attorneys for the City of Espanola, et al.



Nathaniel V. Thompson